

CFDA Number	Title of Federal Program	Federal Award Number
93.235	MAEP FFY 2010	551AB01

**MISSISSIPPI DEPARTMENT OF EDUCATION
CONTRACT FOR SPECIFIED SERVICES**

This contract made by and between the MISSISSIPPI DEPARTMENT OF EDUCATION, Jackson, Mississippi, an agency of the State of Mississippi, (hereinafter referred to as MDE) and Choosing the Best Publishing, LLC of 2625 Cumberland Parkway, Suite 200, Atlanta, GA 30339, (hereinafter referred to as CONTRACTOR).

In consideration of the mutual benefits to be derived from this Contract, the parties hereto covenant and agree as follows:

1. **STATEMENT OF WORK**

MDE hereby contracts with CONTRACTOR to perform the following Specified Services, to wit:

To provide Choosing the Best Curriculum Training in three Regional Workshops for 100 middle school teachers who are not participating in the Building Healthy Families for the Future Grant. Choosing the Best Path, Choosing the Best Life and Choosing the Best Parent curriculum materials will be provided and technical assistance will be given to schools upon request.

2. **PERFORMANCE OF CONTRACT BY CONTRACTOR AND CONTRACTOR'S EMPLOYEES**

CONTRACTOR hereby agrees to perform the Specified Services herein described in Paragraph 1 above in a proper, workmanlike, and dignified manner; warrants that he/she is able to and will perform such Specified Services in a manner acceptable to MDE; and agrees to make all additions, deletions and/or changes that may be required by MDE, as a condition precedent to the acceptance of such Specified Services by MDE.

3. **COMPENSATION**

As full consideration for the Specified Services to be performed under this Contract, and for all rights, properties, and privileges vested in MDE by the terms of this Contract, including the release of MDE, its assigns, agents, licensees, affiliates, clients and principals, representatives, heirs and successors, from any liability for any releases granted by the terms of this Contract in perpetuity, MDE agrees to pay CONTRACTOR using the following breakdown:

Personal Services: An Amount Not to Exceed \$80,280.00 payable upon completion of Specified Services and submission of invoice no later than ten working days after completion of specified services.

4. **INDEPENDENT CONTRACTOR**

Based upon the Internal Revenue Code, the CONTRACTOR has been classified as an independent contractor and assumes all responsibility for reporting any earnings to Federal and State authorities where required by law and paying such taxes as may be required thereon. The CONTRACTOR shall perform all services as an independent contractor and shall discharge all of its liabilities as such. No act performed or representation made, whether oral or written, by the CONTRACTOR with respect to third parties shall be binding on the MDE.

5. **COPYRIGHTS**

CONTRACTOR agrees that all new materials or processes developed, all inventions, new instructional concepts, techniques, scripts and/or work products created, devised, or produced under, or in the performance of, this Contract shall be and are the exclusive property of MDE, in perpetuity.

6. **RIGHTS TO MATERIALS**

CONTRACTOR retains the right to materials used in the performance of the Contract, which was developed by CONTRACTOR with non-MDE funds.

7. **RELEASE FROM LIABILITY**

CONTRACTOR hereby expressly releases MDE, its assigns, agents, licensees, affiliates, clients and principals, representatives, heirs and successors from any liability from any and all privacy, defamation of other claims, demands, injuries, damages and losses of whatsoever nature and character alleged to be caused by or arising out of, directly or indirectly, the matters, acts, circumstances and participation covered by this Contract.

8. **TERMINATION**

The MDE, by written notice, may terminate this contract, in whole or in part, if funds supporting this contract are reduced or withdrawn. To the extent that this contract is for services, and if so terminated, the MDE shall be liable only for payment in accordance with payment provisions of this contract for services rendered prior to the effective date of termination. The MDE, in whole or in part, may terminate this contract for cause by written notification. Furthermore, the MDE and the CONTRACTOR may terminate this contract, in whole or in part, upon mutual agreement. The MDE or the CONTRACTOR may terminate this agreement for any reason after giving thirty (30) days' written notice specifying the effective date thereof to the other party.

9. **CHANGES**

This agreement may be modified, altered, or changed only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or State revisions of any applicable laws or regulations make changes in this agreement necessary.

10. **ACCESS TO RECORDS**

The CONTRACTOR agrees that the MDE, or any of its duly authorized representatives, at any time during the term of this agreement, shall have access to, and the right to audit and examine any pertinent books, documents, papers, and records of CONTRACTOR related to CONTRACTOR'S charges and performance under this agreement. Such records shall be kept by CONTRACTOR for a period of three (3) years after final payment under this agreement, unless the MDE authorizes their earlier disposition. CONTRACTOR agrees to refund to the MDE any overpayments disclosed by any such audit. However, if any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it.

11. **EQUAL OPPORTUNITY EMPLOYER**

The CONTRACTOR understands that the State is an equal opportunity employer and therefore maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, or any other consideration made unlawful by federal, State, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

12. **LAWS**

The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. The CONTRACTOR shall comply with applicable federal and state local laws and regulations. In compliance with State law, the Contractor who is employed by a public entity must make arrangements with his/her employer to take the appropriate leave (annual, professional, compensation, etc.) during the period of service covered by the contract.

13. **ASSIGNMENT**

CONTRACTOR shall not assign or subcontract in whole or in part, its rights or obligations under this agreement without prior written consent of the MDE. Any attempted assignment without said consent shall be void and of no effect.

14. **AUTHORITY TO CONTRACT**

CONTRACTOR warrants (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind, and (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

15. **GRATUITIES**

The CONTRACTOR represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 7-204 (Gratuities) of the Mississippi Personal Service Contract Procurement Regulations.

16. **REPRESENTATION REGARDING CONTINGENT FEES**

The CONTRACTOR represents that it has not retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Contractor's bid or proposal.

17. **COMPLIANCE WITH MISSISSIPPI EMPLOYMENT PROTECTION ACT**

Contract/Seller represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act, Section 71-11-1, et seq of the Mississippi Code Annotated (Supp 2008), and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor/Seller agrees to maintain records of such compliance and, upon request of the State and approval of the Social Security Administration or Department of Homeland Security, where required, to provide a copy of each such verification to the State. Contractor/Seller further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contractor/Seller understands and agrees that any breach of these warranties may subject Contract/Seller to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contractor/Seller by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such termination/cancellation, Contractor/Seller would also be liable for any additional costs incurred by the State due to contract cancellation or loss of license or permit."

18. **E-PAYMENT and E-INVOICING**

The State requires the Contractor to submit invoices electronically throughout the term of the agreement. Vendor invoices shall be submitted to the state agency using the processes and procedures identified by the State. Payments by state agencies using the Statewide Automated Accounting System (SAAS) shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor's choice. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

19. **PERSONNEL BOARD APPROVAL**

The contract shall be governed by the applicable provisions of the Personal Service Contract Review Board Regulations, a copy of which is available at 301 North Lamar Street, Jackson, MS for inspection.

20. **AVAILABILITY OF FUNDS AND USE OF FUNDS**

It is expressly understood and agreed that the obligation of the MDE to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at anytime, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the MDE, the MDE shall have the right upon ten (10) working days written notice to the Contractor, to terminate this agreement without damage, penalty, cost or expenses to the state of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

SUSPENSION/DEBARMENT

CONTRACTOR certifies that neither it nor its principals: (a) are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transaction by any federal department or agency; (b) have, within a three (3) year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal,

state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; (c) are presently indicted or otherwise criminally or civilly charged by a governmental entity with the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements of receiving stolen property, and (d) have, within a three (3) year period preceding this Contract, had one or more public transaction (federal, state or local) terminated for cause or default.

EFFECTIVE DATE OF CONTRACT

This agreement will become effective on the date it is signed by all parties and will end no later than September 30, 2011. CONTRACTOR shall undertake and complete performance of the Specified Services referred to in Paragraph 1 hereof, within the period of this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Contract, at Jackson, in the county of Hinds, in the State of Mississippi, the day and year first above written.

MISSISSIPPI DEPARTMENT OF EDUCATION

Dr. Lynn House 5/23/11
Signature Date
Name: Dr. Lynn House
Title: Deputy State Superintendent

CONTRACTOR

Cliff Baskerville 5/12/11
Signature Date
Name: Cliff Baskerville
Title: Choosing the Best Publishing, LLC

Donna Hales 5.26.11
Signature Date
Name: Donna Hales
Title: Director, Office of Procurement

